

## Franchise Tax Board

## ANALYSIS OF ORIGINAL BILL

Author: AR&T Committee Analyst: Kristina E. North Bill Number: AB 2978  
Related Bills: See Legislative History Telephone: 845-6978 Introduced Date: February 27, 2002  
Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** Conformity to Federal Victims of Terrorism Tax Relief Act of 2001.

**SUMMARY**

This bill would conform state law to specified sections of the federal Victims of Terrorism Tax Relief Act of 2001 to do the following:

- ◆ exempt items from income for certain disasters or acts of terrorism,
- ◆ extend certain taxpayer deadlines, and
- ◆ allow disclosure of certain taxpayer information to federal agencies.

**PURPOSE OF THE BILL**

According to the author's office, the purpose of the bill is to grant financial relief to victims or the families of victims of a Presidentially declared disaster or terrorist attack by conforming to specified federal law relief provisions.

**EFFECTIVE/OPERATIVE DATE**

This bill is a tax levy and would be effective immediately upon enactment. The bill specifies operative dates that would make certain provisions apply to taxable years ending before, on, or after September 11, 2001.

**POSITION**

Pending.

**ANALYSIS**FEDERAL/STATE LAW

Under **federal and state laws**, taxpayers may claim various kinds of losses, including casualty and disaster losses. A **casualty** loss occurs when property is destroyed by fire, storm, flood, or other catastrophe. A **disaster** loss occurs when property is destroyed by fire, storm, flood, or other natural event that is proclaimed a disaster by the President of the United States, or, for state law purposes, by the Governor.

Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input checked="" type="checkbox"/> PENDING

Department Director

Date

Gerald H. Goldberg

5/2/02

**New federal law**, under the Victims of Terrorism Tax Relief Act of 2001 (Public Law 107-134, effective January 23, 2002) exempts from federal taxation the income of any individual who dies by a terroristic or military action. For certain sections of this act, terrorism attacks include only the attack on the Murrah Federal Building in Oklahoma City, the attacks of September 11<sup>th</sup>, and the anthrax attacks after September 11<sup>th</sup> and before January 1, 2002. Some death benefits paid by employers and payments from charitable organizations to victims' families are exempt from federal taxation. This act also excludes from income any discharge of indebtedness arising from the death or injury of a person impacted by the terrorist attacks.

This **new federal law** increased from 120 days to one year the extension of certain deadlines, which includes filing a return, paying certain taxes, and filing a claim for credit or refund, for taxpayers affected by disasters or terroristic or military actions. This relief applies to future events, as well as the past events specified above. This provision does not apply for purposes of determining interest on any overpayment of tax. The Secretary of the Treasury is required to abate interest on the tax assessed during this one-year period.

This act allows the disclosure of certain tax information to appropriate Federal agencies engaged in terrorism and national security investigations. This provision will sunset after December 31, 2003.

**State law** generally conformed to federal law, as it existed prior to January 23, 2002, for postponements of certain tax-related deadlines due to a Presidentially declared disaster with three exceptions. First, state law defines taxpayers as individuals so that business entities are currently excluded from relief. Second, the maximum period for postponement of deadlines is 90 days, rather than the prior federal law postponement of 120 days or the current federal one-year period. Finally, FTB is required to abate interest on the tax assessed for individuals during this 90-day period.

FTB generally provides reasonable cause consideration to extend the deadline for filing the California return and the payment of any balance due under a separate state law to business entity taxpayers located in or affected by Presidentially declared disaster areas. However, there are no interest waiver provisions for business entity taxpayers affected by a disaster.

## THIS BILL

**This bill** would conform state law to the federal *Victims of Terrorism Tax Relief Act of 2001* for items that are specifically excluded from gross income, certain taxpayer deadlines, and disclosure of certain taxpayer information to specified federal agencies. Accordingly, this bill would exclude the following items from income:

- ◆ specified survivor benefits and insurance payments received as compensation for deaths or injuries received as a result of terrorist attacks against the United States;
- ◆ any discharge of indebtedness by reason of the death or injury of a person arising from terrorists attacks occurring on or after September 11, 2001, and before January 1, 2002; and
- ◆ payments made by an exempt charitable organization due to terrorist attacks on or after September 11, 2001, and before January 1, 2002.

**This bill** would conform to the new federal extension of up to one-year for certain taxpayer deadlines. This bill would allow all taxpayers, including trusts and estates, affected by disasters, terroristic attacks, or military actions to receive the same tax relief provided by federal law. Specifically, this bill would extend filing deadlines, payment periods for certain taxes, and filing deadlines for claims for refund.

**This bill** also would permit disclosure of specified tax information to appropriate federal agencies engaged in terrorism and national security investigations.

### IMPLEMENTATION CONSIDERATIONS

The department has identified the following concerns and has provided amendments to resolve them.

To clarify that FTB may only release tax return or return information to federal agencies conducting terrorist investigations, please see Amendment 1.

The sections of the Victims of Terrorism Tax Relief Act of 2001 to which this bill would conform reference the section mandating that the Secretary must not disclose return or return information if it is determined that the disclosure would identify a confidential informant or seriously impair a civil or criminal tax investigation like the Secretary of the Treasury. However, this bill does not specifically conform the state to this section. The author may wish to consider amending the bill to include Section 6103(i)(6) to protect the integrity of these tax investigations. See Amendment 2.

### **TECHNICAL CONCERN**

The correct title of the federal act is the "Victims of Terrorism *Tax* Relief Act of 2001. The author may wish to make this change to avoid confusion or misapplication.

### **LEGISLATIVE HISTORY**

SB 219 (Scott, 2001/2002) would provide specific relief for all taxpayers affected by a Presidentially declared disaster. This bill is currently in the Assembly Revenue and Taxation Committee.

SB 519 (Lockyer, Ch. 7, Stats. 1998) conformed California law to federal law as it relates to the postponement of certain tax-related deadlines. AB 2797 (Cardoza, Ch. 322, Stats. 1998) clarified that these deadlines are only available to individuals affected by a Presidentially declared disaster.

### **OTHER STATES' INFORMATION**

For taxpayers and businesses affected by a Presidentially declared disaster, the majority of states conform to the current federal provisions for a Presidentially declared disaster. Individual state information on conformity with the Victims of Terrorism Tax Relief Act of 2001 was not available.

### **FISCAL IMPACT**

This bill should not significantly impact the department's costs.

## **ECONOMIC IMPACT**

Based on the congressional Joint Committee on Taxation's (JCT) estimated budget effects of the Victims of Terrorism Tax Relief Act of 2001, conforming to federal income tax provisions would result in a minor revenue loss for state tax purposes for the 2002/2003 fiscal year of less than \$350,000. Negligible losses, under \$100,000 each, for fiscal years 2003/2004 and 2004/2005 are projected.

Per JCT, the estimated budget losses are \$187 million, \$51 million and \$6 million for their fiscal years ending in 2002, 2003 and 2004, respectively. Approximately 45 victims out of an estimated total of 6,000 victims were from California. Therefore, a ratio of 45 to 6,000 was applied to the federal losses. In addition, since the federal estimates are based on an average federal tax rate, the federal estimates were divided by a federal tax rate of 28% and an average marginal tax rate of 6% was applied (multiplied) for California purposes to arrive at the results.

## **LEGISLATIVE STAFF CONTACT**

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FRANCHISE TAX BOARD'S  
PROPOSED AMENDMENTS TO AB 2978  
As Introduced February 27, 2002

**AMENDMENT 1**

On page 5, line 7, after "return information" insert:  
to federal agencies

**AMENDMENT 2**

On page 5, line 11, after "(Public Law 107-134)." insert:  
The Franchise Tax Board shall not disclose any return or return information under this section if the Franchise Tax Board determines that such disclosure would identify a confidential informant or seriously impair a civil or criminal tax investigation.